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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,647	01/20/2004	Claudette M. Ables		3332

43876 7590 12/14/2004

CLAUDETTE M. ABLES
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ALBIA, IA 52531

EXAMINER

NASH, BRIAN D

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/761,647	Applicant(s) ABLES, CLAUDETTE M.	
	Examiner Brian Nash	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/20/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner's Comments

1. This action is in response to applicant's preliminary amendment received 7 May 2004.

Drawings

2. The drawings in this application are objected to because they are informal. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.
3. The drawings are also objected to because the elements, i.e. A, B, C, etc... refer to different features in different figures. Each referenced element of the invention should correspond to a single referenced character, e.g. if "A" refers to "single toothed" as in Fig. 1, then "A" should refer to "single toothed" everywhere else it is shown in the figures. Appropriate correction is required.

Specification

4. The abstract of the disclosure is objected to because it contains several instances of "means". Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

Art Unit: 3721

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The specifications are also objected to because there is no "DETAILED DESCRIPTION OF THE DRAWINGS" of the invention. Also, page 7 of the specifications should be simply titled "CLAIMS", i.e. the title should not include claim numbers as they should be referenced in the margin (noted in Claim Objections below in this office action).

Appropriate correction is required.

Claim Objections

6. Claim 1 is objected to because of the following informalities: Claim 1 should be referenced as claim 1 in the margin, i.e. "1. What I claim as my invention...". Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, part (a), is indefinite, and confusingly worded because it is not clear what applicant is claiming.

Art Unit: 3721

In claim 1, part (b), terminology “nose/bottom” is not clear. Examiner suggests restating as bottom of the nose if in fact that is what applicant is intending to claim.

In claim 1, parts (c, d, e), no structural limitations are positively claimed, i.e. the structure of the apparatus is not further limited. Examiner notes that intended use of an apparatus, while not improper to be included in an apparatus claim, does not usually further limit the structure of an apparatus. Method claims are generally used when an applicant wishes to claim an intended way of using an apparatus or performing a task.

The examiner notes that without a detailed explanation of the drawings and invention it is difficult to ascertain a clear understanding of the claimed invention.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US 4,164,225 to Johnson et al. Insofar as the claimed invention is understood, Johnson et al show the same invention including a medical skin stapler (10) having toothed forceps (11,12) located on its nose and used to grasp disunited tissue.

Art Unit: 3721

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wilkinson, Fortner et al, Utyamyshev et al, Puchy, Smith et al, and Green et al are cited to show related references.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nash whose telephone number is 571-272-4465. The examiner can normally be reached on Monday – Thursday from 8 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached at 571-272-4467.

The official fax number for this Group is: 703-872-9306

Brian Nash
10 December 2004


SCOTT A. SMITH
PRIMARY EXAMINER